same land, provided the judgment creditor had no notice of the prior existing lien: *DeVendell* v. *Hamilton,* 27 Ala. 156; *Cleveland* v. *Shannon* (Ark.) 12 S. W. 497; *Eldridge, Dunham & Co.* v. *Post,* 20 Fla. 579; *Cabot* v. *Armstrong,* 100 Ga. 438; *Dutton* v. *McReynolds,* 31 Minn. 66; *Miss. Val. Co.* v. *C. St. L. & N. O. R. Co.,* 58 Miss. 846; *Tarboro* v. *Micks,* 118 N. C. 162; *Jackson* v. *Luce,* 14 Oh. 514; *Laurent* v. *Lanning,* 32 Ore. 11; *App. of Lahr,* 90 Pa. 507; *Campbell* v. *Brick Co.,* 75 Va. 291; *Lash* v. *Hordick,* 5 Dill. 505. In the following states the subsequent judgment creditor is not protected against prior unrecorded incumbrance: *Sigworth* v. *Meriam,* 66 Ia. 477; *Swartz* v. *Stees,* 2 Kan. 236; *Righter* v. *Forrester,* 64 Ky. 278; *Vaughn* v. *Schmalsle,* 10 Mont. 186; *Hord* v. *Harlan,* 134 Mo. 469; *Voorhis* v. *Westervelt,* 43 N. J. Eq. 642; *Dawson* v. *McCarty,* 21 Wash. 314. The reason lying behind these decisions is that the recording statute declares that unrecorded mortgages shall be invalid against subsequent *bona fide* purchasers and the judgment creditor is not regarded as such. However a purchaser at a judgment sale would be protected, even in those states. *Jackson* v. *Dubois,* 4 Johns. N. Y. 216; *Albia Bank* v. *Smith,* 141 Ia. 255. See JONES, MORTGAGES, §§ 462-3.

MUNICIPAL CORPORATIONS—EXTENSION OF CITY AS AFFECTING RATE OF FARE ON STREET RAILWAY.—The city of Detroit granted to a street railway corporation the right to lay tracks and operate along certain streets as far as the "city limits" with the right to collect a specified fare; and to construct and operate lines through such other streets as the city and company might later agree upon. The township just beyond the city granted a franchise to this company to extend these lines beyond the city limits and to charge an additional fare on such extension. The territory of the city was later enlarged so as to include much of the extension lines, but the company continued to charge the extra fare. *Held,* that only one fare could be collected within the city limits as extended. *Detroit* v. *Detroit United Railway* (Mich. 1912) 139 N. W. 56.

The terms of franchise under which a street railway operates constitute a contract between the city and the railway and cannot be changed other than by mutual consent. *Shreveport Traction Co.* v. *Shreveport,* 122 La. 1, 129 Am. St. Rep. 345; *Mayor* v. *Houston City St. Ry. Co.,* 83 Tex. 548, 29 Am. St. Rep. 679. Hence the railway cannot be compelled to carry at the prescribed rate for a longer distance than was contemplated at the time of the grant of the franchise. *Minneapolis* v. *Minneapolis St. Ry. Co.,* 215 U. S. 417, 30 Sup. Ct. 118. A general ordinance of a municipality extends to after-acquired territory unless the contrary is expressed or necessarily implied. *Toledo* v. *Edens,* 59 Ia. 352, 13 N. W. 313; *McGurn* v. *Board of Education,* 133 Ill. 122, 24 N. E. 529; and the same rule extends to an ordinance granting a franchise. *St. Louis Gas Light Co.* v. *St. Louis,* 46 Mo. 121. The obligation of a street railway company to carry from any point within the city limits to any other point in the same for a single fare extends to territory later annexed, though a franchise was granted by the public corporation previously controlling such territory allowing the imposition of an extra fare for that territory.

Indiana R. Co. v. *Hoffman,* 161 Ind. 593, 69 N. E. 399; *Peterson* v. *Tacoma Ry. etc. Co.,* 60 Wash. 406, 140 Am. St. Rep. 936; *People* v. *Detroit United Ry.,* 162 Mich. 460, 139 Am. St. Rep. 582.

MUNICIPAL CORPORATIONS—NOT LIABLE FOR MISUSE OF STREETS BY INDIVIDUALS.—Plaintiff's intestate, while driving along the public street of the defendant town, was struck by a baseball, which inflicted injuries causing his death. Boys had been accustomed to play ball in the streets for two years, and although this was known to the police officers of the town, no effort was made to stop it. *Held,* "it is immaterial whether the plaintiff founds her claim upon the failure to enact an ordinance prohibiting baseball on the streets, or upon the failure to enforce such an ordinance. The municipality would not be liable for the negligence of officers, because the act is governmental in its nature, and the corporation is as much exempt from suit in such cases as the state itself." *Goodwin* v. *Town of Reidsville* (N. C. 1912) 76 So. 232.

A municipal corporation exercises functions that are two-fold, governmental and private. In the exercise of the latter it is subject to suit, in the former it is not. *Jones* v. *Williamsburg,* 97 Va. 722, 34 S. E. 883, 47 L. R. A. 294; 29 CYC. 1356. Failure to pass an ordinance prohibiting certain uses of the public streets is generally held not actionable. *Jones* v. *Williamsburg, supra; Lafayette* v. *Timberlake,* 88 Ind. 330. The contrary has been held, *Cochrane* v. *Mayor of Frostburg,* 81 Md. 54, 31 Atl. 703, 48 Am. St. Rep. 479, 27 L. R. A. 728, upon the theory that this duty is imperative, not legislative or discretionary. Failure to enforce such an ordinance is generally held not actionable. *Addington* v. *Littleton,* 50 Colo. 623, 115 Pac. 896, 34 L. R. A. (N. S.) 1012, Ann. Cas. 1912 C. 753; *Marth* v. *Kingfisher,* 22 Okla. 602, 98 Pac. 436, 18 L. R. A. (N. S.) 1238; *Dudley* v. *Flemingsburg,* 115 Ky. 5, 72 S. W. 327, 60 L. R. A. 575, 103 Am. St. Rep. 253, 1 Ann. Cas. 958; *Norristown* v. *Fitzpatrick,* 94 Pa. 121, 39 Am. Rep. 771; *Contra, Hagerstown* v. *Klotz,* 93 Md. 437, 49 Atl. 836, 54 L. R. A. 940; *Taylor* v. *Mayor,* 64 Md. 68, 54 Am. Rep. 759.

PARENT AND CHILD—LIABILITY OF PARENT FOR NON-SUPPORT—NON-RESIDENT.—Petitioner was indicted under the Ohio statute for failure to provide for his minor child, and filed a petition for a writ of *habeas corpus,* alleging that he then was, and always had been, a resident and citizen of the state of Kentucky, and on that ground claimed that the court indicting him had no jurisdiction of the offence. *Held,* that since the child was in the state of Ohio, the courts of that state had jurisdiction to indict for the failure to provide; and that whether or not the petitioner is guilty cannot be determined on a petition for a writ of *habeas corpus.* Petition dismissed. *In re Poage* (Ohio 1912) 100 N. E. 125.

The case of *State* v. *Ewers,* 76 Ohio St. 563, 81 N. E. 1196, held that the defendant was not guilty of the offence of abandonment, because he had resided in the State of Indiana during the time laid in the indictment. Subsequently, the statute was amended as follows: "The offence shall be held to have been committed in any county in this state in which such child * * *